

July 10, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L07P0012**
Proposed Ordinance No. **2008-0273**

BALMORAL HEIGHTS PLAT
Preliminary Plat Application

Location: 12120 Southeast 196th Street, Postal City Renton

Applicant: Heliana Sandulescu
represented by **Shupe Holmberg**
Baima & Holmberg, Inc.
100 Front Street South
Issaquah, Washington 98027
Telephone: (425) 392-0250
Facsimile: (425) 391-3055

King County: Department of Development and Environmental Services
represented by **Fereshteh Dehkordi**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7173
Facsimile: (206) 296-6613

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve, subject to conditions
Approve, subject to conditions
Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:
Hearing Closed:

July 10, 2008
July 10, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Heliana Sandulescu
12708 Northup Way #303
Bellevue, WA 98005
(206) 595-2135

Engineer: Pitman Engineering
12819 SE 38th Street #159
Bellevue, WA 98006
(425) 562-7226

STR: NW ¼ 4-22-5

Location: 12120 SE 196th Street

Zoning: R-6
Acreage: 2.8 acres
Number of Lots: 16
Density: 5 du/acre
Lot Size: Ranges from 3950 to 4,974 sq.ft.
Proposed Use: Residential
Sewage Disposal: Soos Creek Water & Sewer District
Water Supply: Soos Creek Water & Sewer District
Fire District: Fire District 37
School District: Kent School District

Complete Application Date: August 29, 2007

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the July 10, 2008, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Heliana Sandulescu has submitted a preliminary plat application to subdivide 2.8 acres into 16 lots for detached single-family residential development. The property lies in the R-6 zone within a rapidly urbanizing formerly rural area lying west of Soos Creek.
4. The easternmost lobe of a wetland system, lying mostly offsite on the parcel adjacent to the west, extends into the Balmoral Heights property at the northern end near the proposed cul-de-sac bulb. This Category IV wetland has been heavily grazed and substantially altered where it intrudes into the Balmoral site. This includes a culvert that drains the wetland toward the east. As a pre-

existing alteration, this artificial drainage conveyance will be allowed to remain, but DDES will require it to be enlarged to a 12 inch pipe and connected to the plat's drainage system. The Applicant also proposes to reduce the onsite wetland buffer from 50 feet to 25 feet through the submittal of a buffer enhancement plan.

5. At the public hearing two neighboring property owners to the north, Dan Canzano and Wayne Kottsick, expressed concerns regarding potential fugitive flows within this low lying area. Mr. Kottsick testified that the area within the proposed cul-de-sac bulb contains standing water during major rainfall events. The expectation is that, with plat development and the connection of developed areas to the site's drainage system, fugitive flows in the northern part of the property should be reduced. And, with retention of the pipe draining the wetland, the overall hydrology of the mostly offsite wetland should not be altered.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impact; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat of Balmoral Heights, as revised and received on February 26, 2008, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. The applicant shall obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. See Attachment 2 for a copy of the Fire Protection Engineer conditions.

5. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The drainage design shall meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the KCSWDM.
 - e. The existing stormwater conveyance pipes from the Critical Area Tract(near Lot 10) to SE 196th Street shall be replaced with the construction of the subdivision. Details of this replacement shall be shown on the engineering plans.
 - f. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
6. The following road improvements are required for this subdivision to be constructed according to the 2007 King County Road Design & Construction Standards (KCRD&CS):
 - a. The internal access roads, including the stub to the west, shall be improved at a minimum to the urban subaccess street standards.
 - b. The frontage along SE 196th Street shall be improved at a minimum to the urban neighborhood collector street standards. This improvement shall also meet the Street Widening Requirements in Section 4.03 of the KCRD&CS.
 - c. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.12 of the KCRD&CS.

- d. There shall be no direct vehicular access to or from SE 196th Place to lot 16 which abuts it. A note to this effect shall appear on the engineering plans and final plat.
7. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
8. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
9. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
10. The proposed subdivision shall comply with the Critical Area Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of critical areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
 - a. A small portion of a category IV wetland exists on the subject site. Category IV wetlands require a 50-foot buffer as measured from the wetland edge. This buffer maybe reduced from 50 feet to 25 feet upon DDES approval of a buffer enhancement plan.
 - b. As shown the wetland buffer shall be placed in a Critical Areas Tract (CAT) for long term protection. A 15-foot building setback line (BSBL) from the edge of Critical Area Tract is required on all affected lots and shall be shown on the engineering and final plans.
 - c. A 4-foot wooden split-railed fence or similar shall be installed along the CAT boundary.
 - d. A buffer enhancement plan shall be prepared by a qualified wetland biologist and be submitted during the engineering review phase. The buffer enhancement plan shall be reviewed and approved by the Critical Area staff prior to the final engineering approval.
 - e. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR CRITICAL AREA TRACTS AND CRITICAL
AREAS AND BUFFERS**

Dedication of a critical area tract (CAT) and buffer conveys to the public a beneficial interest in the land within the tract/critical area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety

and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract imposes upon all present and future owners and occupiers of the land subject to the tract the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract and buffer. The vegetation within the tract may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the CAT and the area of development activity shall be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the Critical Area Tract. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the critical area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

11. As shown a minimum 6,240 square-foot recreation tract shall be provided. A conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, finished grade and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - a. A detailed recreation space plan (i.e., landscape specs per KCC 21A.16, equipment specs, final grade, etc.) consistent with the conceptual recreation plan and consistent with the approved engineering plan shall be submitted for review and approval prior to final plat approval and recording. The recreation tract shall be landscaped per KCC 21A.16.
 - b. A performance bond for recreation space improvements and landscaping shall be posted prior to recording of the plat.
12. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and Critical Area Tracts.
13. Street trees shall be provided as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all streets. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 2007 KCRD&CS, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at 684-1622 to determine if SE 196th Street is on a bus route. If it is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

Final landscape plan review and inspection fees shall be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

14. The proposed plat shall comply with the requirements of KCC 16.82 including the significant tree retention as required by 16.82.156. A significant tree retention/replacement plan shall be submitted with the engineering plans.

ORDERED this 10th day of July, 2008.

Stafford L. Smith
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before July 24, 2008, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before July 31, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the

date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JULY 10, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L07P0012.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Bruce Whittaker and Nick Gillen, representing the Department; Heliana Sandulescu, the Applicant; Daniel Canzano; Wayne Kottsick and Chris Carras.

The following Exhibits were offered and entered into the record:

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|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L07P0012 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated July 10, 2008 |
| Exhibit No. 3 | Application for Land Use Permits received August 1, 2007 |
| Exhibit No. 4 | SEPA checklist received August 1, 2007 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued May 2, 2008 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of September 12, 2007; received by DDES on September 13, 2008 |
| Exhibit No. 7 | Revised preliminary plat map received February 26, 2008 |
| Exhibit No. 8 | Conceptual drainage plan received February 20, 2008 |
| Exhibit No. 9 | Assessor's map for NW 04-22-05 received August 1, 2007 |
| Exhibit No. 10 | Level 1 Downstream Drainage Analysis, revised February 21, 2008 |
| Exhibit No. 11 | Wetland Delineation Report prepared by Altmann Oliver Associates, LLC, dated March 27, 2006 |
| Exhibit No. 12 | Additional wetland information, dated November 7, 2007 |
| Exhibit No. 13 | School walkway route map, received January 29, 2008 |
| Exhibit No. 14 | King County GIS map showing neighborhood schools |
| Exhibit No. 15 | King County GIS aerial photograph of proposed subdivision |

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